

MOSES & SINGER LLP

THE CHRYSLER BUILDING
405 Lexington Avenue, NY, NY 10174-1299
Tel: 212.554.7800 Fax: 212.554.7700
www.mosessinger.com

Robert D. Lillienstein
Direct: 212.554.7807 Fax: 917-206-4307
rllillienstein@mosessinger.com

October 19, 2010

VIA ECF

Honorable James S. Gwin
United States District Court
Carl B. Stokes United States Court House
801 West Superior Avenue
Cleveland, Ohio 44113-1838

Re: *Melinda Serin, Judson Russ, Long Soui Lim, Peri Kettler, Gordon Redner, and Thomas J. Smith, v. Northern Leasing Systems, Inc., Jay Cohen, Rich Hahn, and Sara Krieger*
Docket No. 06 CV 1625 (JSG)

Your Honor:

I am writing this letter-motion (dkt #111) to request an Order, pursuant to Fed.R.Civ.P. 37(b), precluding Plaintiffs from introducing any evidence in support of their damage claims in this case, due their failure to provide the disclosures required by Rule 26(a)(1)(A)(iii), despite this Court's Order directing them to do so by October 18, 2010 (dkt #112). As a result, in this four year old case, Defendants still do not have a Rule 26 calculation of damages and "documents or other evidentiary material on which such calculation is based," which the Federal Rules require every Plaintiff to provide at the outset of the case. With a deadline of November 1, 2010 to make *Daubert* motions, and a November 15 trial date looming, the failure to provide basic discovery concerning Plaintiffs damages is highly prejudicial, making it virtually impossible for Defendants to adequately prepare for trial. For that reason, we respectfully request that the Court issue an Order pursuant to Rule 37(b)(2)(A)(ii) prohibiting Plaintiffs from supporting their damage claims in this case.

Respectfully submitted,

/s/
Robert D. Lillienstein

cc. Chittur & Associates (via ECF)
Attorneys for Plaintiffs